

**DISTRUPOL IRELAND LTD**  
**Terms and Conditions of Sale**

In these conditions "Seller" refers to Distrupol Ireland Ltd and/or its subsidiary, associated or operating companies and "Buyer" refers to the individual firm or company to whom a quotation is addressed or whose order is accepted by the Seller. These conditions shall apply in respect of all Contracts ("Contract") between the Seller and Buyer for the purchase of goods or services from the Seller. No other conditions are incorporated or implied into any Contract between the Buyer and the Seller unless expressly accepted in writing by the Seller.

All references to prices, goods and services contained in these conditions shall be taken to mean the prices, goods and services detailed in the relevant order form issued by you ("**Purchase Order**") as subsequently amended by our written acceptance of order form ("**Order Acceptance**").

**1. Application of Conditions**

- (a) All quotations, offers and tenders are made subject to the following conditions. Except as otherwise provided in these conditions, all other terms, conditions, representations or warranties are excluded from any Contract between the Seller and the Buyer unless expressly accepted in writing by the Seller.
- (b) The Purchase Order constitutes an offer by the Buyer to purchase goods in accordance with these conditions.
- (c) The Purchase Order shall only be deemed to be accepted when the Seller issues a written acceptance of the Purchase Order at which point and on which date the Contract shall come into existence (Commencement Date).

**2. Delivery**

- (a) Time for delivery of the goods and completion of the services is given as accurately as possible but is not guaranteed. Except where otherwise agreed, the Seller shall deliver to the Buyer's premises stated in the Buyer's order. In the event that the Seller is unable to deliver the goods at the agreed time, it shall use its reasonable endeavours to notify the Buyer of the delay. Upon notice by the Seller, the Buyer will negotiate with the Seller to agree a new delivery date. In the event that the goods cannot be delivered, or the parties cannot agree a new delivery date, the Buyer may cancel the contract and seek alternative goods at its own cost and risk.
- (b) The Seller reserves the right to deliver less or more than the quantity of goods ordered by up to 5% and the Buyer shall pay for the quantity actually delivered. Measurements of volume or weight are also subject to variation as a result of normal manufacturing or packing processes and the Buyer must accept such variations up to 5% of the stated measurement.
- (c) The Seller may deliver the goods by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Buyer to cancel any other instalment. Failure by the Buyer to take delivery of any one or more instalments of goods delivered in accordance with the Contract shall entitle the Seller to terminate the Contract either in whole or part.

- (d) No liability can be accepted for alleged defects, where such defects are reasonably apparent upon inspection, unless the Buyer notifies the site from which the goods were ordered or the Buyer's usual customer representative within 3 workingdays of receipt of the goods, and confirms by notification in writing within 5 working days of receipt of the goods. For latent and not reasonably apparent defects, Seller must be notified within 5 working days of discovery and in any event no later than 3 months from the date of delivery. Where the Seller is notified of the defects in accordance with this provision, the Seller shall repair or replace the goods at its sole option.
- (e) If the Buyer does not promptly discharge delivery vehicles used to deliver the goods to the Buyer, the Buyer shall indemnify the Seller against any liability whatsoever, including, but not limited to, a liability to pay demurrage or similar payments owed to the owner/operator of the road tanker in respect of the consequent delay.
- (f) Goods are not permitted for resale by the Buyer unless expressly agreed in writing by the Seller.

### **3. Price and Payment**

- (a) Subject to condition 3(b) and 3(c), the price for the services or each delivery of goods will be as detailed in the relevant Purchase Order, as amended by the relevant Order Acceptance, as amended in accordance with condition 3(b) and/or 3(c) or, if no pricing information is contained therein, will be in accordance with the Seller's price list in force from time to time. In the event of a conflict any price revision in accordance with condition 3(b) and/or 3(c) shall prevail, or if the price has not been revised, the price in the Order Acceptance shall prevail and, if no price information is contained therein, the price in the Purchase Order shall prevail.
- (b)
  - (i) The Seller shall be entitled to increase the price of the goods every six months after the date of the Order Acceptance for any reason or more frequently if the Seller (in its sole discretion) considers the same to be justified by any material increase in the prices of raw materials used by the Seller or other overhead costs incurred by the Seller in the supply of the goods.
  - (ii) The Seller shall provide the Buyer with 21 days advance notice of any price increase. The Buyer shall be entitled to cancel any orders it has made prior to such a notice of a price increase by providing written notice to the Seller, only if the goods or services provided under that relevant Purchase Order are provided by the Seller out of the Seller's normal stock offering and do not form part of a particular stocking arrangement, such notice to be given within 7 days of the Buyer receiving notice of the price increase. If written notice of cancellation is not received by the Seller within 7 days then the Contract will continue in force.
- (c) Where as a direct result of the United Kingdom's withdrawal from the European Union the Sellers costs of delivering the goods are materially increased, the Seller shall be entitled to increase the price of the goods on at least 14 days' written notice to the Buyer for such Products delivered from, to or via the United Kingdom (at any point in the supply chain). This increase shall be documented by the Seller, but for avoidance of doubt, does not need to be agreed by the Buyer in advance. For the purpose of this condition, an increase

of 5% or more of the Seller's costs shall in all cases be deemed to be a "material increase".

- (d) All prices (which unless otherwise specifically stated are exclusive of VAT and any other applicable taxes, including hydrocarbon oil duty, where applicable, and do not include delivery or package charges) are net and are not subject to any discount. Payment must be received to the account nominated by the Seller by the 20th day of the month following the month of delivery of the goods or services, or no later than the last working day before the due date if the date falls on a nonworking day. The Buyer will pay all amounts due under the Contract in full and without any deduction, withholding or set-off.
- (e) At the Seller's complete discretion, it may charge interest at:
  - (i) the rate of 5% per annum above Allied Irish Banks Plc base rate from time to time in force;
  - (ii) at 1% above such a rate as the Seller may be charged by a commercial lending bank; or
  - (iii) at the prevailing statutory interest rate under the Prompt Payment of Accounts Act, 1997 as amended by the European Communities (Late Payment in Commercial Transactions) Regulations, 2002, which interest shall accrue on a daily basis from the date payment becomes overdue until the Buyer has made payment to the Seller of the amount due and shall be payable in accordance with this condition 3.

Subject to condition 3 (d) (iii), the interest shall be payable daily and compounded quarterly and shall be chargeable on the entire sum outstanding where payment is not made in accordance with condition 3(d).

- (f) Where the Buyer defaults in payment, the Seller shall be entitled to suspend any or all further deliveries and the performance of services under the Contract and under any other Contract between the seller and the Buyer and demand immediate payment of all sums owed, or yet to be invoiced, by the Buyer to the Seller or any affiliated companies on any account.
- (g) Where goods are delivered by instalments or the services performed in stages the Seller may invoice each instalment or stage separately and the Buyer shall pay such invoice in accordance with these conditions.
- (h) The Seller has the right to issue a supplementary invoice in respect of any increase in tax or duty between the date of dispatch and the date of delivery for which the Seller may be liable to the appropriate authorities.
- (i) No disputes or delays (other than delays acknowledged by the Seller in writing) arising under the Contract shall interfere with prompt payment by the Buyer.

#### **4. Credit**

The Seller reserves the right, at any time, to withhold credit facilities from or to limit the amount or period of credit it will grant to Buyer.

**5. Guarantee**

- (a) Except as otherwise provided in these conditions, section 12 of the Sale of Goods Act 1893 as amended by the Sale of Goods and Supply of Services Act 1980 is implied into the Contract.
- (b) The goods supplied by the Seller shall at the point of delivery, be in accordance with the specification supplied by the Seller (if any) and shall be of satisfactory quality but are not tested or sold as fit for any particular purpose unless specifically agreed in writing by the Seller. The services shall also conform to the specification supplied by the Seller (if any) and be carried out with all reasonable care and skill.
- (c) If the condition of the goods or services is such as might or would (subject to these conditions) entitle the Buyer to claim damages, to repudiate the Contract or to reject the goods or services the Buyer must first ask the Seller to repair the goods or supply satisfactory substitute goods or services and the Seller shall then be entitled at its option to repair or supply satisfactory substitute goods or services free of cost and within a reasonable time or to repay the price of the goods or services in respect of which the complaint is made.
- (d) If the Seller does so repair or supply satisfactory substitute goods or services or effect repayment under condition 5 (c), the Buyer shall be bound to accept such repaired or substituted goods or services or repayment and the Seller shall be under no further liability in respect of any loss or damage of whatever nature arising in relation to those goods or services.
- (e) The Buyer agrees to comply with all of its obligations under the EU Regulation on REACH (Regulation EC No 1937/2006). In particular, but without limitation, the Buyer shall provide, on a timely basis, to the Seller all relevant new information on hazardous properties of the goods. The buyer shall comply with any safety information on the goods supplied to it and ensure that their customers are provided with all the information required to use their products safely.

**6. Liability**

- (a) Nothing contained in these conditions shall limit or restrict the Seller's liability for death or personal injury caused as a result of the Seller's negligence, nor does the Seller limit or restrict its liability for fraud or other matters for which liability may not be limited or excluded under applicable law.
- (b) The Seller or the Seller's manufacturers or suppliers provide written instructions and/or advice to the Buyer for the safe use of the Seller's goods and containers (such as crates, drums, boxes, cases or carboys) and other types of packaging (further copies available on request). The Seller accepts no liability whatever for any losses, costs or other claims caused where the Buyer uses its own containers or caused as a result of the Buyer's failure to use the Sellers' goods, containers or other packaging in accordance with the written safety instructions and/or advice.
- (c) Where the Seller delivers goods and containers/packaging to the Buyer, the point of delivery will be the delivery vehicle's side and the Seller accepts no liability whatever for

any losses, costs or other claims in connection with the transfer of the goods and containers/ packaging from the vehicle side to the Buyer's storage location or offloading.

- (d) Where the Buyer receives goods via a Power Take Off delivery system, it is the Buyer's responsibility to ensure that all operating instructions and health and safety procedures are followed at the point of delivery and the Seller accepts no responsibility for any claims, losses, costs or damage caused at and from the point of transfer to the Buyer's installation.
- (e) Where the Seller delivers the goods to the Buyer, the Seller ensures that all packaging in the form of crates, drums, boxes, carboys etc are suitable to protect the goods from damage during delivery. The Seller can accept no liability for any loss or damage caused where such packaging is used for the further transportation of the goods or other unconnected goods and the Buyer must satisfy himself that the goods are safely packaged for such transportation.
- (f) Where the Buyer collects the goods from the Seller, although the Seller may inspect any collection vehicle used by the Buyer, the Seller shall not be responsible for any losses caused or claims made to the Buyer as a result of the unsuitability/inappropriateness of the vehicle in any respect whatsoever.
- (g) Unless the Seller has specifically confirmed to the Buyer that the goods are suitable to be mixed with any other goods, the Seller accepts no liability for admixture of the goods with any other goods and it shall be the Buyer's sole and entire responsibility to ensure that the products concerned and the containers to be used are entirely suitable for such admixture and/or for transfer of such.
- (h) Subject to condition 6(a), in no circumstances shall the Seller's maximum aggregate liability under or in connection with the Contract, whether in contract, tort (including negligence) or otherwise, will in no circumstances exceed the price of the goods or services under the Contract.
- (i) Subject to condition 6(a), in no circumstances shall the Seller be liable in contract, tort (including negligence or breach of statutory duty) or otherwise for any loss (whether direct or indirect) of profits, goodwill or business opportunity or for any indirect, special or consequential loss (whether or not reasonably foreseeable and even if the Seller had been advised of the possibility of the Buyer incurring the same) which arises out of or in connection with the Contract.

## **7. Trade Marks etc**

All trade marks, registered or unregistered design rights, copyrights, confidential information such as colour schemes, knowhow and other intellectual property rights of any nature ("Intellectual Property") in all goods or services supplied by the Seller are owned by the Seller and/or its suppliers. The Seller reserves the right at any time to require Buyer forthwith to discontinue the use in any manner whatsoever any such trade marks or other Intellectual Property.

## **8. Risk**

The risk in the goods shall remain with the Seller until delivery by the Seller or collection of the goods by the Buyer or payment for the goods by the Buyer, whichever is the earlier, at which time the risk in the goods shall be transferred to the Buyer.

**9. Reservation of Title**

- (a) Title to the goods shall only pass to the Buyer if the Buyer has paid to the Seller all sums (including any default interest) due from it to the Seller under this Contract and under all other contracts between the Seller and the Buyer (including any sums due under contracts made after this Contract) whether or not the same are immediately payable.
- (b) The Seller may recover goods in respect of which title has not passed to the Buyer at any time and the Buyer irrevocably licences the Seller, its officers, employees and agents to enter upon any premises of the Buyer, with or without vehicles, for the purpose either of satisfying itself that condition 9 (c) below is being complied with by the Buyer or of recovering any goods in respect of which title has not passed to the Buyer.
- (c) Until title to the goods has passed to the Buyer under these conditions it shall possess the goods as fiduciary agent and bailee of the Seller. The Buyer shall ensure that any packed products are clearly identifiable as received from the Seller as far as reasonably possible. During such time as the Buyer possesses the goods with the Seller's consent, the Buyer may in the normal course of business sell or hire the goods as principal but without committing the Seller to any liability to the person dealing with the Buyer. Each paragraph or sub-paragraph of this condition is separate, severable and distinct.

**10. Ex Stock Goods**

Ex-stock goods are offered subject to the same not having been sold elsewhere prior to receipt of unqualified acceptance of the Seller's quotation.

**11. Variations**

No variation to any Contract or additional terms shall have effect unless signed in writing on behalf of the Seller by an Officer of the Seller.

**12. Assignment**

The Contract is between the Seller and the Buyer as principal and is not assignable without the prior written consent of the Seller.

**13. Termination**

The Seller shall be entitled forthwith to terminate any Contract between it and the Buyer by written notice if the Buyer fails to pay any invoice in accordance with these conditions, where the control of the Buyer changes during the period of the Contract or where the Buyer commits any continuing or material breach of these conditions of sale or makes any composition with its creditors or suffers any distress or execution to be levied upon its assets or is wound up either compulsorily or voluntarily or suffers a receiver of any of its assets to be appointed or otherwise ceases or threatens to cease to carry on business.

**14. Force Majeure**

- (a) For the purposes of this Contract, Force Majeure Event means an event beyond the reasonable control of the Seller including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of the party or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, the imposition of any embargo, export or import restrictions, quota or other restrictions or prohibitions, failure to grant any necessary licence or consent, any consequence arising as a result of or in connection with the United

Kingdom's withdrawal from the European Union, accident, breakdown of plant or machinery, fire, flood, storm, default or failure of suppliers or subcontractors. breakdown of machinery or anything directly or indirectly interfering with the goods or services (including but not limited to the price or supply of raw materials, services or any other goods relating to the contract) or the manufacture, supply, shipment, arrival or delivery of the goods.

(b) The Seller shall not be liable to the Buyer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.

(c) If the Force Majeure Event prevents the Seller from providing any of the goods and/or services for more than 24 weeks, either party shall, without limiting its other rights or remedies, have the right to terminate this Contract immediately by giving written notice to the other.

## **15. Compliance**

The Buyer;

(a) will comply with all applicable laws, statute, and regulations relating to competition, anti-corruption and anti-bribery including, but not limited to, the Bribery Act 2010;

(b) acknowledges that it has access to, and reviewed, a copy of the Global Standards of Business Conduct, Anti-Bribery and Corruption and Anti-Trust and Competition Policies at <http://www.distrupol.com> and shall adhere to the principles contained therein, and any further compliance policies provided to the Buyer, as updated from time to time;

(c) will have and shall maintain in place throughout the term of this agreement its own policies and procedures, including adequate procedures under the matters referred to at 16 (a) and 16(b), to ensure continued compliance

## **16. Governing Law and Jurisdiction**

This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the laws of Ireland and the parties hereby submit to the exclusive jurisdiction of the Irish Courts.

## **17. Severability**

If any of these terms, conditions, clauses or sub-clauses are found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of these terms and conditions, which will remain in full force and effect.

## **18. Non-waiver**

A waiver of any right under the contract is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under the contract or by law shall constitute a waiver of that or any other right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

## **19. Data Protection**

Should the Buyer receive any personal data, as defined by the General Data Protection Regulations (EU) 2016/679, as amended, replaced or superseded from time to time, including by the laws implementing or supplementing the General Data Protection Regulation (the "GDPR") from the Seller, the Buyer shall ensure that it fully complies with the GDPR and only deals with the data in so far as required to fulfil its obligations under the Contract and these terms.

The Buyer hereby agrees to indemnify the Seller against all claims, demands, actions, suits, judgments, orders, damages, costs, losses, expenses and liabilities suffered or incurred by the Seller as a result of any breach of the GDPR by the Buyer.

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